

PHILLIP A. TALBERT  
United States Attorney  
ARIN C. HEINZ  
Assistant United States Attorney  
2500 Tulare Street, Suite 4401  
Fresno, CA 93721  
Telephone: (559) 497-4000  
Facsimile: (559) 497-4099

Attorneys for Plaintiff  
United States of America

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,  
  
Plaintiff,  
  
v.  
  
BRIAN WHITWORTH,  
  
Defendant.

CASE NO. 1:22-CR-00222-ADA-BAM

STIPULATION REGARDING EXCLUDABLE  
TIME PERIODS UNDER SPEEDY TRIAL ACT;  
ORDER

DATE: January 25, 2023  
TIME: 2:00 p.m.  
COURT: Hon. Barbara A. McAuliffe

**BACKGROUND**

This case is set for a status conference on January 25, 2023. This Court should consider the following case-specific facts in finding excludable delay appropriate in this particular case under the ends-of-justice exception, § 3161(h)(7) (Local Code T4). If continued, this Court should designate a new date for the status conference. *United States v. Lewis*, 611 F.3d 1172, 1176 (9th Cir. 2010) (noting any pretrial continuance must be “specifically limited in time”).

**STIPULATION**

Plaintiff United States of America, by and through its counsel of record, and defendant, by and through defendant’s counsel of record, hereby stipulate as follows:

1. By previous order, this matter was set for a status conference on January 25, 2023.
2. By this stipulation, defendant now moves to continue the status conference until March 8, 2023, and to exclude time between January 25, 2023, and March 8, 2023, under 18 U.S.C.

§ 3161(h)(7)(A), B(iv) [Local Code T4].

3. The parties agree and stipulate, and request that the Court find the following:

a) The government has represented that the discovery associated with this case includes 5.34 gigabytes of discovery including investigative reports, audio and video footage, and related documents in electronic form. All of this discovery has been either produced directly to counsel and/or made available for inspection and copying.

b) Counsel for defendant desires additional time to consult with his client, review the current charges, review discovery, and to conduct investigation related to the charges.

c) Counsel for defendant believes that failure to grant the above-requested continuance would deny him the reasonable time necessary for effective preparation, taking into account the exercise of due diligence.

d) The government and the defense counsel have entered into plea negotiations with the hopes to resolve the case short of trial. The parties request additional time to discuss the terms of the potential plea in order to reach an agreement.

e) The government does not object to the continuance.

f) Based on the above-stated findings, the ends of justice served by continuing the case as requested outweigh the interest of the public and the defendant in a trial within the original date prescribed by the Speedy Trial Act.

g) For the purpose of computing time under the Speedy Trial Act, 18 U.S.C. § 3161, et seq., within which trial must commence, the time period of January 25, 2023 to March 8, 2023, inclusive, is deemed excludable pursuant to 18 U.S.C. § 3161(h)(7)(A), B(iv) [Local Code T4] because it results from a continuance granted by the Court at defendant's request on the basis of the Court's finding that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial.

4. Nothing in this stipulation and order shall preclude a finding that other provisions of the Speedy Trial Act dictate that additional time periods are excludable from the period within which a trial must commence.

1 IT IS SO STIPULATED.

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4 Dated: January 17, 2023

PHILLIP A. TALBERT  
United States Attorney

5  
6 /s/ ARIN C. HEINZ  
ARIN C. HEINZ  
Assistant United States Attorney

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8  
9 Dated: January 17, 2023

/s/ ROBERT LAMANUZZI  
ROBERT LAMANUZZI  
Counsel for Defendant  
BRIAN WHITWORTH

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12  
13 **ORDER**

14 IT IS SO ORDERED that the status conference is continued from January 25, 2023, to **March 8,**  
15 **2023, at 1:00 p.m. before Magistrate Judge Barbara A. McAuliffe.** Time is excluded pursuant to 18  
16 U.S.C. § 3161(h)(7)(A), B(iv).

17 IT IS SO ORDERED.

18 Dated: **January 18, 2023**

/s/ *Barbara A. McAuliffe*  
UNITED STATES MAGISTRATE JUDGE